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02/03/2000

Albert G. Lintel III

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02/18/2004

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EXAMINER

KAPADIA, MILAN S

ART UNIT

PAPER NUMBER

2144

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 13

Application Number: 09/496,783
Filing Date: February 03, 2000
Appellant(s): LINTEL III ET AL.

Alan W. Lintel
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed 7 November 2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

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(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 17-19 and 21-24 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,890,129	SPURGEON	03-1999
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6,343,271	PETERSON et al.	01-2002
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(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

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1. Claims 17-19 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spurgeon et al (5,890,129) and further in view of Peterson et al. (6,343,271).

(A) As per claim 17, Spurgeon teaches a healthcare information system comprising: a plurality of provider office systems (Spurgeon; abstract and figure 1), each provider office system comprising:

circuitry for generating referral requests with reference to a database associating insurance health plans with doctors (Spurgeon; abstract, col. 6, lines 24-41, col. 8, lines 17-21);

referral authorization circuitry for:

receiving referral requests (Spurgeon; abstract),

generating electronic authorization requests to an associated insurance company responsive to ones of said referral requests (Spurgeon; abstract),

receiving an electronic authorizations/denial for each electronic authorization request (Spurgeon; abstract).

updating said database responsive to said research (Spurgeon; col. 7, line 45-col. 8, line 16 and col. 11, lines 1-11

Spurgeon fails to expressly disclose forwarding denied authorization requests to a third party human researcher for further research. However, this feature is old and well known in the art as evidenced by Peterson's teachings with regards to forwarding

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denied authorization requests to a third party human researcher for further research (Peterson; col. 13, lines 23-64). It would have been obvious to one having ordinary skill in the art at the time the invention was made to expand Spurgeon's system to forward denied authorization requests to a third party human researcher for further research, as taught by Peterson, with the motivation of enabling denied authorization requests to be processed further (Peterson; col. 2, lines 40-41).

(B) As per claim 18, Spurgeon fails to expressly disclose wherein said referral authorization circuitry further forwards referral requests that cannot be authorized electronically to a third party human researcher. However, this feature is old and well known in the art as evidenced by Peterson's teachings with regards to wherein said referral authorization circuitry further forwards referral requests that cannot be authorized electronically to a third party human researcher (Peterson; col. 10, line 50-col. 11, line 76). It would have been obvious to one having ordinary skill in the art at the time the invention was made to expand Spurgeon's system to forward referral requests that cannot be authorized electronically to a third party human researcher, as taught by Peterson, with the motivation of enabling a proposed request that is consistent with fraud, unintentional error, or for some other reasons to be reviewed more thoroughly (Peterson; col. 4, lines 35-42).

(C) As per claim 19, Spurgeon teaches a central information system having a global

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database of referral information in communication with said provider office systems (Spurgeon; col. 7, lines 8-27; the examiner interprets the "information-exchange system" as a "central information system.")

(D) As per claim 21, Spurgeon teaches wherein said authorization requests are EDI messages (Spurgeon; col. 7, lines 8-27; the examiner interprets reformatting of data to be compatible with insurer or provider as a form of electronic interchange).

(E) Method claims 22-24 repeat the subject matter of system claims 17, 17 and 18, and 18, respectively, as a series of steps rather than a set of apparatus elements. As the underlying structure of claims 17 and 18 has been shown to be fully disclosed by the teachings of Spurgeon and Peterson in the above rejections of claims 17 and 18, it is readily apparent that the system disclosed by Spurgeon and Peterson include the steps to perform these functions. As such, these limitations are rejected for the same reasons given above for system claims 17 and 18, and incorporated herein.

(11) Response to Argument

(A) Appellant argued that Spurgeon provides no methodology for resolving errors in the insurance company's database, in reference to claim 17. The appellant further argues that Spurgeon does not teach a healthcare information system with referral authorization circuitry for (1) forwarding denied authorization requests to a third party

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human researcher for further research or (2) updating said database responsive to said research.

In response to Appellant's first argument, the examiner respectfully notes that the features upon which Appellant relies (i.e., resolving errors in the insurance company's database) is not recited in the rejected claim (s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 998 F.2d 1181, 26 USPQ2d 1057 (Fed Cir. 1993). Further, even if such limitations were inserted in the claim, Spurgeon does teach eliminating errors in the insurance company's database by making updates, directly, accurately, and automatically to the database (Spurgeon; col. 4, lines 50-55).

In Appellant's next argument, Appellant contends that "the decision to pursue manual adjudication or automatic adjudication in Peterson is performed prior to submission of the claim (based on information provided by the insurance company), not upon denial of the claim by the insurance company, as specified in claim 17. A manual adjudication required by the pre-checking process in Peterson does not suggest that there is anything wrong with the information in the claim. The pre-checking process only identifies claims of a type that the insurance company does not want to automatically adjudicate. There is nothing in Peterson to suggest a denial of a claim may be the result of an error in the insurance company's database, that manual adjudication can resolve the error, or that the error in the database will be updated upon resolving the error, so that the error will not continually repeat itself."

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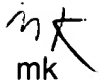
In response, it is respectfully noted, nothing in the claim language of claim 17 suggests that the "there is anything wrong with the information in the claim" and that "denial of a claim may be the result of an error in the insurance company's database, or that the error in the insurance company's database will be updated upon resolving the error, so that the error will not continually repeat itself." Furthermore, it is respectfully noted, that the language of claim 17 requires "denied authorizations" to be forwarded not "denied claims to be forwarded." As such, there is no requirement that the claim actually be adjudicated before being forwarded to a third party human researcher. Therefore, it is respectfully submitted, that the denial of a submitted claim as being in proper form automatic adjudication, is a form of "denied authorization." (Peterson; col. 9, lines 31-44). As a result, the Examiner maintains that the combined system of Spurgeon and Peterson teach all the limitations of claim 17 as claimed.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,

Milan Kapadia


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February 10, 2004

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